

Message Text

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ACTION SCS-03

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FM AMEMBASSY MEXICO

TO SECSTATE WASHDC NIACT IMMEDIATE 6474

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E.O. 11652: N/A

TAGS: CASC MX

SUBJECT: CONDUCT OF CONSULAR PROTECTIVE PROCEDURES

REF: STATE 010595

1. EMBASSY EXPLORING DEPT'S SUGGESTION EMPLOY LOCAL LEGAL ADVICE WITH SEVERAL ATTORNEYS AND FIRMS. HOWEVER, SEVERAL PROBLEMS IN SELECTING COUNSEL HAVE ARISEN WHICH EMBASSY SEEKING TO RESOLVE: (A) POSSIBLE CONFLICT OF INTEREST, AS SPECIALIZED ATTORNEYS MIGHT NOT WILLINGLY FOREGO SUCH LUCRATIVE CLIENTS, (B) DIFFICULTY FINDING ONE LAWYER WHO ABLE AND WILLING TO DO ALL SUGGESTED BY DEPT FOR SIMPLE SALARY OR CONTRACT, AND (C) FACT THAT MEXICAN PENAL CODE IS BASED ON NAPOLEONIC CODE RATHER THAN CASE LAW WHICH RESULTS IN VARIOUS INTERPRETATIONS DEPENDING ON ATTITUDE OF THE JUDGE.

2. FOLLOWING STEPS ARE BEING TAKEN TO STRENGTHEN CONSULAR PROTECTIVE PROCEDURES:

(A) LIST OF ATTORNEYS HAS BEEN REVISED AND EMBASSY HAS REMOVED NAMES OF ANY ATTORNEYS WHOSE SERVICES HAVE BEEN QUESTIONABLE;

(B) REVISED HANDOUT IS BEING PREPARED WHICH WILL EXPLAIN THESE SUBJECTS:

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(1) MEXICAN LAWS,

(2) RIGHTS OF ACCUSED, INCLUDING USE OF PUBLIC DEFENDER,

(3) LEGAL, JUDICIAL AND PENAL PROCEDURES AND CONDITIONS,

(4) PERTINENT PROVISIONS OF CONSULAR CONVENTION,

(5) SINGLE CONVENTION ON NARCOTIC DRUGS, AND

(6) ASSISTANCE WHICH EMBASSY MAY PROVIDE. THE ATTORNEY GENERAL OFFERED TO THE AMBASSADOR TO DISTRIBUTE THIS HANDOUT TO NEWLY ARRESTED AMERICAN CITIZENS.

3. EMBASSY CONTINUES TO PRESS GOM BOTH FORMALLY AND INFORMALLY FOR PROMPT NOTIFICATION OF ARREST OF ANY USC AND TO ALLOW CONSULAR OFFICER IMMEDIATE ACCESS, CITING ARTICLE VI, PARA 3 OF CONSULAR CONVENTION AND THIS SITUATION HAS IMPROVED. ON FEBRUARY 20, AMBASSADOR DISCUSSED SUBJECT WITH ATTORNEY GENERAL WHO AGREED PROVISIONS OF CONSULAR CONVENTION MUST BE OBSERVED AND GAVE HIS ASSURANCES THAT APPROPRIATE INSTRUCTIONS WOULD ONCE AGAIN BE SENT TO FEDERAL JUDICIAL POLICE.

4. US CITIZENS IN MEXICO CITY ARE PERSONALLY VISITED BY A CONSULAR OFFICER AS SOON AS POSSIBLE AFTER ARREST. IN RECENT MONTHS THIS HAS BEEN WITHIN FIRST 72 HOUR PRE-CONSIGNMENT PERIOD. WHERE IT IS IMPRACTICAL BECAUSE OF DISTANCE, CONTACT BY TELEPHONE IS ATTEMPTED. ON FIRST CONTACT THE CONSULAR OFFICER DETERMINES WHETHER US CITIZEN REQUIRES ASSISTANCE IN COMMUNICATING WITH ANYONE AND WHETHER HE HAS BEEN MISTREATED.

5. IN CASES INVOLVING DRUG OFFENSES EMBASSY INFORMS DEA. BOTH DEA AND LEGATT NOW PROVIDE INFORMATION WHEN AVAILABLE TO EMBASSY WHICH MIGHT BE HELPFUL IN RESPONDING TO CONGRESSIONAL AND PUBLIC INQUIRIES, OR IS OF SPECIAL VALUE TO CONSULAR OFFICER. SINCE CONSULAR CONFERENCE THERE HAVE BEEN NO CASES WHERE DEA KNEW OF ARRESTS OF US CITIZENS BEFORE CONSULAR OFFICER.

6. TELEGRAPHIC REPORTS TO DEPARTMENT ALONG LINES DISCUSSED IN CONSULAR CONFERENCE WILL CONTINUE.

7. SINCE JANUARY 1, 1975, CONSULAR OFFICERS HAVE MADE LIMITED OFFICIAL USE

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23 VISITS TO PRISONS IN MEXICO CITY AND ALL US CITIZEN PRISONERS WHO WANTED TO SEE A CONSULAR OFFICER WERE ABLE TO DO SO, EITHER INDIVIDUALLY OR AS PART OF A GROUP. MAJORITY OF PRISONERS ARE IN MEXICO CITY.

8. BECAUSE THE CITIZENS CONSULAR SERVICES UNIT IS SHORT-HANDED AND TRAVEL FUNDS ARE NOW LIMITED, VISITS TO PRISONS AT SOME DISTANCE OUTSIDE MEXICO CITY BY CONSULAR OFFICERS

HAVE NOT BEEN POSSIBLE IN RECENT WEEKS. (WE ARE NOW EXAMINING POSSIBILITY OF HAVING OTHER OFFICERS TRAVELLING IN VICINITY ALSO MAKE VISITS). A MINIMUM OF TWO DAYS REQUIRED TO VISIT ACAPULCO (255 MILES), OAXACA (315 MILES), POZA RICA/TUXPAN (204 MILES), VERACRUZ (263 MILES) AND TUXTLA GUTIERREZ (657 MILES) WHERE US CITIZENS MAY BE IMPRISONED. IN ORDER TO VISIT PRISONS FAR OUTSIDE MEXICO CITY ON A MONTHLY BASIS IT IS ESTIMATED EMBASSY WOULD REQUIRE ONE ADDITIONAL OFFICER AND \$10,000 ANNUALLY FOR TRAVEL AND PER DIEM.

9. IN ORDER TO VISIT US PRISONERS IN THEIR RESPECTIVE CONSULAR DISTRICTS, CONSTITUENT POSTS HAVE REPORTED FOLLOWING REQUIREMENTS:

(A) CIUDAD JUAREZ ESTIMATES WILL REQUIRE ONE ADDITIONAL LOCAL EMPLOYEE AND \$1,200 ANNUALLY FOR TRAVEL AND PER DIEM TO VISIT CHIHUAHUA WHICH IS APPROXIMATELY 233 MILES DISTANT.

(B) MERIDA ESTIMATES WILL REQUIRE \$2,000 TO VISIT CHETUMAL (277 MILES), CAMPECHE (119 MILES), ISLA MUJERES (200 MILES TO PUERTO JUAREZ, WHICH IS NEAREST CITY ON MAINLAND), AND COZUMEL (200 MILES, WHICH IS NEAREST POINT ON MAINLAND). ESTIMATE IS BASED ON PRESENT WORKLOAD WHICH MAY INCREASE WITH ESTABLISHMENT OF DEA OFFICE.

(C) MONTERREY ESTIMATES WILL REQUIRE ONE ADDITIONAL OFFICER AND ONE LOCAL EMPLOYEE (DRIVER OR CLERK) AND \$15,000 TO VISIT PIEDRAS NEGRAS (326 MILES), SALTILLO (53 MILES), TORREON (227 MILES), DURANGO (384 MILES), SAN LUIS POTOSI (332 MILES), CIUDAD VICTORIA (178 MILES), AND TAMPICO (360 MILES). MONTERREY SUGGESTS CONSIDER APPOINTMENT LIMITED OFFICIAL USE

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CONSULAR AGENTS FOR DURANGO, SAN LUIS POTOSI AND TAMPICO AND CONSULAR AGENT POSSIBILITY SHOULD ALSO BE CONSIDERED IN OTHER CONSULAR DISTRICTS.

(D) OTHER POSTS IN MEXICO REPORT THAT PERSONNEL AND FUNDS ARE ADEQUATE UNLESS PRESENT WORKLOAD INCREASES.

10. AN UNFORTUNATE ASPECT OF THE PRESENT SITUATION IS THAT CONGRESSIONAL INTEREST HAS ENCOURAGED RUMOR OF A MASS DEPORTATION TO UNITED STATES WHICH IS CREATING FALSE HOPES AMONG THE PRISONERS. CONSULAR OFFICERS HAVE POINTED OUT THAT PRESIDENT ECHEVERRIA RECENTLY STATED SUCH ACTION WOULD BE UNCONSTITUTIONAL. HOWEVER, PRISONERS NOT CONVINCED, WHICH MAY LEAD TO SERIOUS MORALE PROBLEM, AND PERHAPS EVEN DISCIPLINARY PROBLEMS, ONCE THEY REALIZE THE

FUTILITY OF THEIR HOPES.

11. THE AMBASSADOR AND SENIOR OFFICERS ARE TAKING PERSONAL INTEREST
IN US PRISONERS AND THEIR WELFARE, PARTICULARLY TREATMENT BY
MEXICAN AUTHORITIES AND LOCAL ATTORNEYS. DEPARTMENT MAY
BE ASSURED MATTER IS RECEIVING HIGHEST PRIORITY.
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